



Rep. Sidney H. Mathias

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09500HB4755ham002

LRB095 14848 RLC 51673 a

1 AMENDMENT TO HOUSE BILL 4755

2 AMENDMENT NO. _____. Amend House Bill 4755, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Harassing and Obscene Communications Act is
6 amended by changing Sections 1-2 and 2 as follows:

7 (720 ILCS 135/1-2)

8 Sec. 1-2. Harassment through electronic communications.

9 (a) Harassment through electronic communications is the
10 use of electronic communication for any of the following
11 purposes:

12 (1) Making any comment, request, suggestion or
13 proposal which is obscene with an intent to offend;

14 (2) Interrupting, with the intent to harass, the
15 telephone service or the electronic communication service
16 of any person;

1 (3) Transmitting to any person, with the intent to
2 harass and regardless of whether the communication is read
3 in its entirety or at all, any file, document, or other
4 communication which prevents that person from using his or
5 her telephone service or electronic communications device;

6 (3.1) Transmitting an electronic communication or
7 knowingly inducing a person to transmit an electronic
8 communication for the purpose of harassing another person
9 who is under 13 years of age, regardless of whether the
10 person under 13 years of age consents to the harassment, if
11 the defendant is at least 16 years of age at the time of
12 the commission of the offense;

13 (4) Threatening injury to the person or to the property
14 of the person to whom an electronic communication is
15 directed or to any of his or her family or household
16 members; or

17 (5) Knowingly permitting any electronic communications
18 device to be used for any of the purposes mentioned in this
19 subsection (a).

20 (a-5) Telecommunications carriers, commercial mobile
21 service providers, and providers of information services,
22 including, but not limited to, Internet service providers and
23 hosting service providers, are not liable under this Section,
24 except for willful and wanton misconduct, by virtue of the
25 transmission, storage, or caching of electronic communications
26 or messages of others or by virtue of the provision of other

1 related telecommunications, commercial mobile services, or
2 information services used by others in violation of this
3 Section.

4 (b) As used in this Act:

5 (1) "Electronic communication" means any transfer of
6 signs, signals, writings, images, sounds, data or
7 intelligence of any nature transmitted in whole or in part
8 by a wire, radio, electromagnetic, photoelectric or
9 photo-optical system.

10 (2) "Family or household member" includes spouses,
11 former spouses, parents, children, stepchildren and other
12 persons related by blood or by present or prior marriage,
13 persons who share or formerly shared a common dwelling,
14 persons who have or allegedly share a blood relationship
15 through a child, persons who have or have had a dating or
16 engagement relationship, and persons with disabilities and
17 their personal assistants. For purposes of this Act,
18 neither a casual acquaintanceship nor ordinary
19 fraternization between 2 individuals in business or social
20 contexts shall be deemed to constitute a dating
21 relationship.

22 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)

23 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

24 Sec. 2. Sentence.

25 (a) Except as provided in subsection (b), a person who

1 violates any of the provisions of Section 1, 1-1, or 1-2 of
2 this Act is guilty of a Class B misdemeanor. Except as provided
3 in subsection (b), a second or subsequent violation of Section
4 1, 1-1, or 1-2 of this Act is a Class A misdemeanor, for which
5 the court shall impose a minimum of 14 days in jail or, if
6 public or community service is established in the county in
7 which the offender was convicted, 240 hours of public or
8 community service.

9 (b) In any of the following circumstances, a person who
10 violates Section 1, 1-1, or 1-2 of this Act shall be guilty of
11 a Class 4 felony:

12 (1) The person has 3 or more prior violations in the
13 last 10 years of harassment by telephone under Section 1-1
14 of this Act, harassment through electronic communications
15 under Section 1-2 of this Act, or any similar offense of
16 any state;

17 (2) The person has previously violated the harassment
18 by telephone provisions of Section 1-1 of this Act or the
19 harassment through electronic communications provisions of
20 Section 1-2 of this Act or committed any similar offense in
21 any state with the same victim or a member of the victim's
22 family or household;

23 (3) At the time of the offense, the offender was under
24 conditions of bail, probation, mandatory supervised
25 release or was the subject of an order of protection, in
26 this or any other state, prohibiting contact with the

1 victim or any member of the victim's family or household;

2 (4) In the course of the offense, the offender
3 threatened to kill the victim or any member of the victim's
4 family or household;

5 (5) The person has been convicted in the last 10 years
6 of a forcible felony as defined in Section 2-8 of the
7 Criminal Code of 1961; ~~or~~

8 (6) The person violates paragraph (4.1) of Section 1-1
9 or paragraph (3.1) of subsection (a) of Section 1-2; or ~~or~~

10 (7) The person was at least 18 years of age at the time
11 of the commission of the offense and the victim was under
12 18 years of age at the time of the commission of the
13 offense.

14 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)".